IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 5993 of 2000

AND

WRIT PETITION NO. 21639 OF 2004

Between:

The Zilla Parishad, Rep by its Chief Executive Officer,
Kurnool, Kurnool District.

..... PETITIONER

AND

1 Smt. P.Ramalingamma (Died) per LR

Gardner-cum-Sweeper, Zilla Parishad High School,

Nandavaram, Kurnool District.

2 The A.P. Administrative Tribunal, Rep by its Registrar,
Hyderabad.

3. K.Rajamma w/o K. Chinna Basappa, aged 31 years,

r/o Nandavaram, Kurnool District.

(R-3 is brought on record as L.R. of deceased R-1 as per Court Orders

dated 10-3-2005 in WPMP No. 21789 of 2004)

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or direction more particularly one in the nature of Writ of Mandamus to call for the records relating to the orders passed in O.A.No. 72792/90, dt. 12.11.1998 and set aside the same by holding and declaring that the same is illegal, arbitrary and violative of the principles of natural justice and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner:MR.P.RAGHAVENDRA REDDY

Counsel for the Respondent No.1 and 2: MR.A.SATYA PRASAD

The Court made the following :

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WRIT PETITION NO : 21639 of 2004

Between:

The Zilla Parishad, rep. by its Chief Executive Officer,
Zilla Parishad, Kurnool District.

..... PETITIONER

AND

Smt. P. Ramalingamma (Died), as per legal Representative Smt. K. Rajamma
W/o K. Chinna Basappa, R/o Nandavaram, (Via), Yemmiganur,

Nandamvaram Mandal, Kurnool District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to

issue an order or direction more particularly one in the nature of writ of mandamus calling for the records relating to OA.No. 2314/2000 dated 11-10-2004 on the file of the Hon'ble AP Administrative Tribunal and declare the same as illegal and arbitrary

Counsel for the Petitioner:MR.P.RAGHAVENDRA REDDY

Counsel for the Respondent .: MR.V.AJAYAKUMAR

The Court made the following :

COMMON ORDER: **(Per the Hon'ble Sri Justice G.Bikshapathy)**

Both the Writ Petitions can be disposed of by a common order, as the issue involved in both the writ petitions filed by the Zilla Parishad is one and the same.

2. Writ petition 5993 of 2000 is filed challenging the order dated 12-11-1998 in

O.A.No.72792 of 1990. In O.A.No.72792 of 1990 filed by the Ist respondent herein, the Tribunal passed the following order;

> *"We have considered the matter. If the applicant is continuing in service pursuant to the above interim orders the respondents are directed to issue appropriate orders to continue the applicant in service. The O.A. is accordingly disposed of. No costs."*

3. Against the said order, Zilla Parishad, Kurnool filed W.P.No. 5993 of 2000. During the pendency of this Writ Petitione, the 1st respondent filed another O.A. 2314 of 2000 seeking revised scales of pay. But, however, during the pendency of O.A.2314 of 2000, she expired on 6-10-2003. Taking into consideration the subsequent events and also noting that she was granted scales of pay in the scale of 290-425, the Tribunal passed the following order:

> *"As we see the facts of the case, there is no dispute with regard to the reinstatement of the applicant by virtue of the orders of the Tribunal. But, the grievance of the applicant is that since the date of his reinstatement into service i.e. 1.5.1992, she was not either given increments or her scale was fixed in the subsequent PRCs. Further, no interim orders were also granted by the Hon'ble High Court suspending the judgment of the Tribunal and the Writ Petition is pending. In the facts and circumstances of the case, the respondents are directed to revise and refix the scale of the applicant from the date he was reinstated into service in the revised pay scales of 1993 and 1999 and pay all the arrears due to him as per rules. It goes without saying that based on the scale fixed and arrived at by the Respondents the pension by the respondents necessary pension and pensionary benefits also have to be arrived at. It is however, made clear that if any orders are passed by the High Court in future, based on those orders, necessary revised orders may be passed by the Respondents. The entire exercise as directed above shall be completed and necessary orders be passed within three months from the date of receipt of copy of this judgment. O.A. is disposed of accordingly. It is hoped that there shall be no further delay on the part of the respondents in passing final orders along with payment of monetary benefits in view of the fact that it is the wife of the original applicant who has been impleaded as Legal Representative and has been waiting for monetary benefits for the last two years."*

4. Challenging the said order Writ Petition 21639 of 2004 was filed by the Zilla

Parishad, Kurnool.

5. The Ist respondent-Smt. P.Ramalingamma was appointed consequent on the death of her husband. She was appointed initially on 11-9-1980 on a consolidated pay of Rs.135/- and that was enhanced from time to time. On 14-7-1996 she was converted into a contingent employee on part time basis. But, the Government issued Memo No. 89202/Estt.I/89-4, dated 29-6-1990 directing termination of the services of the deceased P. Ramalingamma. Accordingly, Zilla Parishad issued orders of termination dated 2-10-1990. Assailing the said termination order she filed O.A.No.72792 of 1990. Interim stay was granted on 6-11-1990. By virtue of interim order she was continued in service. While, she was in service O.A.72792 of 1990 was disposed of, if she is continuing in service, she may be continued in service.

6. The issue now arises for consideration is whether the L.Rs. of P. Ramalingamma are entitled for pension.

7. The Tribunal already passed orders to revise the scales of pay of the deceased and workout the pension in accordance with the Rules. Though, the learned counsel for Zilla Parishad submits that she is not eligible for pension as the services put in by her are not pensionable services, in the absence of particulars relating to her services, it would not be appropriate for this Court to decide the same on merits.

8. Under those circumstances, we find that the Writ Petitions can be disposed of with the following directions.

1. That the petitioner-Z.P. Kurnool shall consider the matter as to whether the deceased employee became eligible for pension in accordance with the Rules. If so, the quantum of pension payable to the L.Rs.,

2. As regards the revised pay already a direction was granted by the Tribunal to grant revised pay scales and the same has to be implemented, since she was drawing the emoluments in the pre-revised scale of Rs.290-425. Thus, we find that the order of the Tribunal with regard to the revised scales of pay holds good. Apart from the pension if the L.Rs. of the deceased employee are entitled for gratuity and terminal benefits, the same may be workedout and and paid to them in accordance with the Rules. This exercise shall be done within a period of three months from the date of receipt of a

copy of this order. No order as to costs.

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G.Bikshapathy, J.

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P.S.Narayana, J.

10th March, 2005

KM

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Registrar, A.P. Administrative Tribunal,
   Hyderabad.

1. The Zilla Parishad, Rep by its Chief Executive Officer,
   Kurnool, Kurnool District.

3 2 CD copies

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and

THE HON'BLE MR JUSTICE P.S.NARAYANA

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WRIT PETITION NO : 5993 of 2000

AND

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10th March, 2005